IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

MONDAY, THE 30TH JULY 2007 / 8TH SRAVANA 1929

WP(C).No. 13599 of 2004(R)

PETITIONER:

SRI. RAMAKRISHNA DYEING WORKS,
KOTTATHARA, REPRESENTED BY ITS MANAGING PARTNER
K. RADHAKRISHNAN, S/O. KARUPPU SAMY,
AGED 52 YEARS, 8/3A, RACE COURSE,
COIMBATORE DISTRICT, TAMIL NADU.

BY ADV. SRI.SUNNY MATHEW.

RESPONDENTS:
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1. **THE ASSISTANT EXECUTIVE ENGINEER,**
   SUB DIVISION, AGALI, PALAKKAD DISTRICT.

2. **THE SUB ENGINEER, ELECTRICITY SUB**
   DIVISION, AGALI, PALAKKAD DISTRICT.

3. **THE DEPUTY CHEIF ENGINEER,**
   VYDYUTHI BHAVAN, KERALA STATE ELECTRICITY BOARD,
   TRIVANDRUM.

4. **THE KERALA STATE ELECTRICITY BOARD,**
   REPRESENTED BY ITS SECRETARY, VYDYUTHI BHAVAN,
   TRIVANDRUM.

BY ADV. SRI.K.S.ANIL, SC, KSEB,
SRI.C.K.KARUNAKARAN, SC FOR KSEB,
GOVT. PLEADER SMT. DEEPA.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.13599/2004:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE REVISED INVOICE ISSUED BY THE R.1. TO THE PETITIONER.

EXT.P.2: COPY OF THE MAHAZAR DTD. 02/01/03.

EXT.P.3: COPY OF THE NOTICE DTD. 24/03/04 ISSUD BY THE R.1. TO THE PETITIONER.

RESPONDENT'S EXHIBIT:

EXT.R1.A: COPY OF THE CALCULATION STATEMENT.

//TRUE COPY//

prv.

KURIAN JOSEPH, J.

W.P. (C). NO. 13599 OF 2004

Dated this the 30th day of July, 2007.

J U D G M E N T

The writ petition is filed mainly with the following prayers :-

> i) To issue a writ of certiorari or any other appropriate writ, order or direction quashing Exts. P1 and P3.
>
> ii) To issue a writ of mandamus or any other appropriate writ, order or direction commanding the 1st respondent not to disconnect the service connection No. 827 of the Agaly Electrical Section for the non-compliance of Exts. P1 and P3.

2. As far as penalty for unauthorised connected load is concerned, it is now settled law in view of the Bench decision of this Court in W.A.1231/03 that the penalty has to be limited to the fixed charge portion. It is held that there shall not be any penalty by way of proportionate energy charges. The impugned demands are quashed making it clear that the liability of the petitioner shall only be for the penalty for fixed charge portion. The revised demand shall be issued to the petitioner and the amounts already remitted by the petitioner shall be adjusted.

The writ petition is disposed of as above.

KURIAN JOSEPH, JUDGE.

smp